

**54-8b-3.3 Services that must be offered on a nondiscriminatory basis -- Public telecommunications to be cost-based -- Packaged services -- Quality of service standards.**

- (1)
  - (a) As used in this section, "cost-based" means that the prices for the telecommunications services shall be established after taking into consideration the total service long-run incremental cost of providing the service.
  - (b) The term "cost-based" does not prevent the establishment of prices:
    - (i) that promote the universal availability of service in the state; or
    - (ii) that are offered by a telecommunications corporation for a public telecommunications service in a promotional offer, or market trial, or to meet competition.
- (2) Except with respect to a price regulated service offered in a promotional offer, or market trial, or to meet competition and notwithstanding any other provision of this chapter:
  - (a) a telecommunications corporation with more than 30,000 access lines in the state that provides a public telecommunications service may not:
    - (i) as to the pricing and provisioning of the public telecommunications service, make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality; or
    - (ii) in providing services that utilize the local exchange network:
      - (A) make or give any undue or unreasonable preference or advantage to any person, corporation, or locality; or
      - (B) subject any person, corporation, or locality to any undue or unreasonable prejudice or disadvantage;
  - (b) public telecommunications services provided by a telecommunications corporation with more than 30,000 access lines in the state shall be nondiscriminatory, cost-based, and subject to resale as determined by the commission; and
  - (c) public telecommunications services may be packaged with other services, so long as they are also offered on a separate, unbundled basis.
- (3)
  - (a) In order to promote continued investment in the public telecommunications network and to improve the quality of service for end users, the commission may adopt rules governing service quality standards to end users for all public telecommunications services.
  - (b) The commission shall have the authority to enforce the rules adopted under this Subsection (3) by granting billing credits to the affected end user where the noncompliance is for reasons within the telecommunications corporation's control.
  - (c) Rules adopted under this Subsection (3) on or after January 1, 2005, shall impose no greater requirements or obligations on any telecommunications corporation:
    - (i) than were applicable to that telecommunications corporation under rules adopted before January 1, 2005; or
    - (ii) than were imposed on telecommunications corporations that were not incumbent telephone corporations, if the telecommunications corporation is not an incumbent telephone corporation.
  - (d) An incumbent telephone corporation with less than 30,000 access lines in the state is exempt from this Subsection (3).

Amended by Chapter 5, 2005 General Session